

# General Order

## Houston Police Department



ISSUE DATE:

March 31, 2020

NO.

300-07

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 300-07, dated May 23, 2018

SUBJECT: OVERTIME COMPENSATION – CLASSIFIED

### POLICY

Overtime compensation for *nonexempt* classified employees shall be made in accordance with federal and state statutes, the City of Houston Code of Ordinances, and the current classified Meet and Confer Agreement.

This General Order applies to all classified employees who hold the rank of police officer, senior police officer, or sergeant, or other classified employees with a pay grade equivalent of sergeant or below except where specifically provided otherwise (e.g., supervisors and timekeepers responsibilities).

### DEFINITIONS

**Adjusted Shift.** See General Order 200-26, **Workday and Workweek**.

**Classified Employee.** For purposes of this General Order, the term *classified employee* may be used interchangeably with the term *officer* as defined below.

**Kronos®.** The time and attendance system for the City of Houston.

**Nonexempt.** Refers to an employee whose job classification is covered by the Fair Labor Standards Act (FLSA) as being eligible for overtime compensation. For the purposes of this General Order, this includes classified employees with a pay grade equivalent of sergeant or below.

**Officer.** For the purposes of this General Order, the term *officer* applies to police officers, senior police officers, sergeants, or other classified employees with a pay grade equivalent of sergeant or below.

**Pay Period.** See General Order 200-26, **Workday and Workweek**.

**Replacement Officer.** A qualified officer who voluntarily substitutes to work for another officer in the Strategic Officer Staffing Program (SOSP).

**SAP®.** Systems Applications and Products (SAP) is the financial, purchasing, fixed-asset, payroll, and human resources program used by the City of Houston.

**Time Actually Worked.** For purposes of calculating overtime, *time actually worked* includes time the officer is actually on duty, including mealtime, on-duty training, and City business, as well as when the officer observes designated City Council declared holidays, or when the officer has taken paid leave (i.e., paid time off, death in the family, or other paid leave). However, any leave taken by a replacement officer during a 14-day pay period will not count as *time actually worked* for purposes of calculating FLSA overtime in the Strategic Officer Staffing Program.

Any *deferred holiday time* accrued is not counted as *time actually worked* for the purposes of calculating overtime since the officer is not actually working on the holiday for which the *deferred holiday time* is accrued.

## 1 CALCULATION OF OVERTIME

Overtime shall be earned by officers after they work more than the number of hours in their regularly scheduled workday, including all *time actually worked*.

When calculating overtime compensation, quarter-hour time blocks shall be used for time entered into the Kronos® system by timekeepers. If an officer works eight minutes or more of a quarter-hour time block, then the entire 15-minute block shall be approved for compensation. When less than eight minutes in a time block are worked, credit for that time block shall not be granted.

Except as otherwise noted in this General Order, all overtime earned shall be compensated at the rate of time and a half.

Overtime pay shall be calculated at the officer's rate of pay at the time the overtime was earned.

Officers shall have the option of overtime pay or *compensatory time* for overtime worked, unless the compensatory time bank limit would be exceeded (see section 4, *Compensatory Time*) or the below exception applies.

**Exception:** An officer shall not have the above option if the officer is informed in advance that the overtime shall be compensated by "time only" or "pay only," and the officer's participation is voluntary.

## 2 GENERAL RULES

Travel from home to work or the reverse is not hours worked for purposes of the FLSA. See section 3, *Call-Ups and Special Assignments* for an exception.

Officers shall not work overtime without prior authorization from the appropriate supervisor.

All overtime shall be justified as serving a specific department function or need.

Authorizing overtime for the specific purpose of allowing an officer to receive overtime compensation is strictly prohibited. Authorizing adjusted shifts resulting in overtime compensation is prohibited, unless it can be established that the adjustment is in the best interest of the department. The authorizing supervisor must properly document the reason for the adjustment on all appropriate overtime compensation request forms (a.k.a. overtime request forms).

Officers who underreport or fail to report hours worked are subject to disciplinary action. Supervisors who allow such action shall also be subject to disciplinary action. Unless otherwise allowed by law or the applicable Meet and Confer Agreement, the following applies:

- a. Officers may not waive their right to or refuse compensation for overtime worked.

- b. Supervisors shall not order or suggest to officers to waive their right to or refuse compensation for overtime worked. See also section 14, *Denial or Removal of Overtime Compensation*.

### **3 CALL-UPS AND SPECIAL ASSIGNMENTS**

#### **Call-Ups**

When off-duty officers are ordered by a supervisor to report immediately to a specific location for a department action other than court attendance, overtime compensation shall be authorized from the time the officer receives the notification and shall continue until the officer is released from the last location to which he was ordered to report.

The travel time allowed for compensation must be realistic in association and not have an appearance of impropriety.

#### **Special Assignments**

When a supervisor notifies an officer to report to a specific location and at a specific time to perform a needed police action (e.g., parades, demonstrations), overtime compensation shall be authorized from the officer's arrival time or the time the officer was scheduled to report to the event location, whichever is later.

### **4 COMPENSATORY TIME**

The total number of hours of compensatory time in an officer's time bank shall not exceed 480 hours. Once the officer's compensatory time accrual reaches the 480-hour limit, all additional overtime worked shall be compensated with pay.

When officers' compensatory time banks are maximized or may become maximized because of an overtime assignment, officers shall advise their supervisors of the fact whenever they request or are required to work overtime.

At the time of an officer's separation from the department as a classified employee, all banked compensatory time (depending on how it was accrued) shall be administered in accordance with the applicable law or the applicable Meet and Confer Agreement.

### **5 COUNCIL-APPROVED HOLIDAYS**

Only holidays designated by City Council are authorized holidays. When an officer is off observing a holiday, the holiday shall have a value equal to the officer's workday.

When a City of Houston holiday occurs on an officer's regular day off, the officer shall be granted *deferred holiday time* equal to the officer's regular workday.

When a holiday occurs on an officer's regular day off and the officer is required to work the holiday, the officer shall be entitled to both of the following:

- a. *Deferred holiday time.*
- b. *Compensatory time or pay at the rate of time and a half for the number of hours actually worked.*

When a holiday occurs on an officer's regular workday, the officer shall be compensated for the holiday and for all hours actually worked on that day. Hours actually worked shall be compensated at the rate of time and a half.

## 6 DAYLIGHT SAVING TIME

At the beginning of Daylight Saving Time, which occurs each year on the second Sunday in March at 0200 hours, clocks are adjusted forward one hour. *Nonexempt* officers whose scheduled shift is shortened by one hour due to the change in time shall have the option of either one of the following:

- a. *Burning one hour of accumulated leave.*
- b. *Working one hour directly before or directly after their regularly scheduled shift.*

Division commanders shall ensure officers' time is accounted for accordingly. Division commanders shall also ensure a coordination of efforts between shifts when officers elect to work one hour directly before or after their regularly scheduled shift.

At the end of Daylight Saving Time, which occurs each year on the first Sunday in November at 0200 hours, clocks are adjusted backward one hour. Prior to the first Sunday in November of each year, division commanders shall determine appropriate staffing levels necessary to provide adequate police services for the extended shift when the end of Daylight Saving Time occurs. Division commanders shall generate a sign-up list and ask for volunteers to work the additional hour on such date for overtime. If vacancies exist after everyone has been offered the opportunity to volunteer, the division shall utilize a seniority list to fill any vacancies remaining. Seniority shall be used in conjunction with each officer's preference to determine which officers will be permitted to go off duty after having worked the number of hours in their normal shift and which officers will be required to work the extra hour in the extended shift. Overtime shall be paid in accordance with section 1, *Calculation of Overtime*.

## 7 EARN AND BURN

The department prohibits the practice known as "Earn and Burn" in which an officer burns some personal leave time in order to work in the Strategic Officer Staffing Program (SOSP) or an overtime program and earn overtime. Described below are prohibitions regarding Earn and Burn.

Officers shall not use or be allowed to use (burn) any type of leave (straight time) and earn SOSP compensation or overtime compensation during the same shift.

Furthermore, if an officer burns unscheduled leave for a regularly scheduled shift in the 24-hour period before or after working SOSP or any overtime program, an Earn and Burn violation has occurred unless one of the exceptions noted below applies.

Additionally, if there is a pattern of an officer burning scheduled or unscheduled leave for a regularly scheduled shift in the 24-hour period before or after working SOSP or any overtime program, then a violation has occurred unless one of the exceptions noted below applies.

The following are exceptions and will not constitute violations of the Earn and Burn policy.

- a. *Manpower shortages, Emergency Call-Ups, or Special Assignments.* Shift commanders have the authority to give approval for officers to work SOSP or an overtime program due to manpower shortages, emergency call-ups, or special assignments even though the officer has burned unscheduled leave. The shift commander's approval must be documented on the overtime request form.
- b. *Exceptional Circumstances.* If an officer burns unscheduled leave due to unforeseen, exceptional circumstances (e.g., family emergency) in the 24-hour period before or after working SOSP or an overtime program and it is deemed appropriate by the below designated supervisor, the following shall apply:
  1. *When the officer burns up to and including half of the officer's regularly scheduled shift (e.g., 4 hours of an 8 hour shift), a supervisor may approve the officer to work SOSP or an overtime program. The supervisor may also determine a violation has not occurred if the time burned occurs after working SOSP or an overtime program. The supervisor's approval must be documented on the overtime request form.*
  2. *When an officer burns more than half of the officer's regularly scheduled shift due to exceptional circumstances, the shift commander may approve the officer to work SOSP or an overtime program. The shift commander may also determine a violation has not occurred if the time burned occurs after working SOSP or an overtime program. The shift commander's approval must be documented on the overtime request form.*

If an Earn and Burn violation occurs, the officer may be prohibited from working SOSP or any overtime program in the future and may be investigated in accordance with the department's disciplinary system. The division commander shall make the final determination of whether an officer is prohibited from working SOSP or an overtime program. Additionally, division commanders have the final decision on questions regarding the Earn and Burn policy.

## **8 FLOATING HOLIDAYS**

The hour value of a floating holiday shall be equal to an officer's normal workday, and shall be of non-accruable time. Floating holidays cannot be submitted for pay. Floating holidays must be used as whole workdays. If an officer is required to work or attend court during his regular shift on a day previously approved as a floating holiday, the entire holiday will remain unused and must be rescheduled.

## **9 ON-DUTY TRAINING**

Officers shall adjust their shift to attend on-duty training when such training falls outside their regularly scheduled shift. If the on-duty training falls on the officer's regular day off, the supervisor shall adjust the officer's days off.

Officers attending on-duty training are eligible for overtime compensation if the training causes an officer to exceed the number of hours in the officer's regular workday.

Officers shall have their arrival and departure times certified by a member of the Academy staff. Except as provided above, overtime may be authorized only to avoid a negative impact on division operations.

## **10 STRATEGIC OFFICER STAFFING PROGRAM**

Officers approved to work the Strategic Officer Staffing Program (SOSP) for straight time pay (base, longevity, and training only) cannot work more than 86 hours for straight time in a 14-day pay period. Any leave taken by a replacement officer during the 14-day pay period shall not count as *time actually worked* for purposes of calculating FLSA overtime in the SOSP. Furthermore, court overtime and any other time and a half compensation are not counted in the 86-hour calculation. Only hours worked for straight time pay shall be used in calculating the 86 hours.

Additionally, officers shall not establish a pattern of manipulating SOSP to reflect an apparent change in their regular shift or regular days off.

The below examples provide clarification regarding the SOSP 86-hour straight time limit.

### **Example 1:**

During a 14-day pay period, officer A worked one extra shift as a replacement officer for Officer B, who has a scheduled shift of 8 hours. Officer A's straight time worked in the 14-day pay period was 80 hours for his own regularly scheduled shifts. Since he worked 8 additional hours as a replacement officer, Officer A may receive only 6 hours of additional straight time pay to remain within the 86-hour limit. Officer A will receive compensatory time for the remaining two hours worked as a replacement officer.

### **Example 2:**

Officer A worked 8 hours as a replacement officer for Officer B. During the 14-day pay period, Officer A burned 2 hours of leave time; thus, his straight time worked for his own regularly scheduled shifts equaled 78 hours. Because Officer A burned 2 hours in the same 14-day pay period in which he worked SOSP, the time burned does not count towards *time actually worked* for purposes of calculating FLSA overtime. Therefore, Officer A may receive 8 hours of additional straight time pay for the hours worked as a replacement officer and still be within the 86-hour limit.

### **Example 3:**

Officer A worked 8 hours as a replacement officer for Officer B. During the 14-day pay period, Officer A received 4 hours of court overtime and worked another overtime program for which he received 4 hours of overtime compensation at the rate of time and a half. Officer A also burned 4 hours of paid leave during the 14-day pay period. The overtime compensation hours are not used in calculating the 86 hours. Because he burned 4 hours, Officer A has worked 76 hours of straight time for his own regularly scheduled shifts during the 14-day pay period. Thus, Officer A

may receive additional straight time pay for the 8 hours worked during the SOSP. After having worked the 8 hours of SOSP, the total straight time worked by Officer A is 84 hours.

See General Order 300-34, **Strategic Officer Staffing Program** for eligibility and additional restrictions regarding SOSP.

## **11 TRAVEL TIME GAP**

Except as noted below, there must be a non-compensated travel time gap between an officer's end of shift and the beginning time of an overtime assignment and vice versa. The travel time gap must be realistic in association and not have an appearance of impropriety. Calculation of travel time gap shall consider the time of day, traffic, weather, and distance traveled. If travel is required, the minimum travel time gap shall be no less than 15 minutes.

When officers are traveling to an overtime assignment in a privately owned vehicle, the requirement of a travel time gap applies. There is no travel time gap requirement when officers are traveling to an overtime assignment using a City owned or controlled vehicle or when no travel is required.

## **12 NONEXEMPT EMPLOYEE OVERTIME COMPENSATION REQUEST FORM**

### **Documentation on the Overtime Request Form**

Officers requesting overtime compensation shall use the appropriate form (e.g., *Nonexempt Employee Overtime Compensation Request* form located on the department's Intranet Portal, *Court Overtime Request* form available at the courthouse).

Officers requesting overtime compensation shall list in the *Details* section the reasons for the overtime, any reference numbers, and who authorized the overtime.

When subpoenaed to Municipal Court or the Harris County Courthouse complex, officers who request overtime compensation and are unable to arrive at the court liaison office within 15 minutes after being dismissed from the courtroom shall document in the *Details* section sufficient details explaining why the officer was unable to arrive within 15 minutes.

If officers need extra room to make comments, they shall use the back of the form (if it is blank) or a separate piece of paper. Officers shall note on the first page if the comments continue on the back or separate paper.

If an employee other than the officer submitting or supervisor approving the overtime request form adds a comment in the *Details* section, that employee shall include his name and employee number.

### **Submission of the Overtime Request Form**

Officers requesting overtime compensation in the form of either pay or compensatory time shall submit the appropriate overtime request form to their immediate supervisor. However, if an officer's immediate supervisor is on approved leave, the overtime request form shall be submitted to another supervisor in the officer's assigned division for approval. If the overtime was worked

outside the officer's assigned division, the officer shall submit the overtime request form to the appropriate supervisor in the division for which the overtime was worked.

Officers shall submit the overtime request form as set forth above within five *calendar* days following the hours worked.

Once an officer submits an overtime request form to a supervisor, it becomes the responsibility of the receiving supervisor to ensure the timekeeper is provided any approved overtime request form within five *calendar* days after the date it was submitted to the first approving supervisor. All approved overtime request forms shall be submitted to the division's timekeeper where the overtime was performed.

### **Records Retention**

All original approved overtime request forms shall be retained by the compensating division and a copy shall be forwarded to the officers' regular assigned division for placement in their division files in accordance with General Order 800-12, **Records Retention**. The above process also applies to officers on temporary assignment in accordance with General Order 300-02, **Transfer of Classified Employees**.

## **13 SUPERVISOR RESPONSIBILITIES**

Supervisors shall not delegate their authority to approve overtime compensation requests to non-supervisory personnel. Stamped signatures for approval are prohibited.

Supervisors shall ensure travel time gaps and requests for overtime and travel compensation are reasonable, proper, and in accordance with the rules for overtime compensation as outlined in this and other applicable General Orders and directives.

Supervisors shall ensure that times on an overtime request form do not overlap with the officer's regular shift. Supervisors must pay special attention when officers adjust their shift or take off partial days.

An overtime compensation request shall not be approved if it contains obvious inaccuracies. The overtime compensation request shall be returned to the officer for correction or explanation to the satisfaction of the supervisor. Except for obvious inaccuracies noted above, supervisors shall refer to section 14, *Denial or Removal of Overtime Compensation*, if the overtime compensation request does not comply with this General Order.

Other than filling in the department activity code (DAC), if still blank, and adding comments in the *Details* section, supervisors shall not make changes on a submitted overtime request form. Corrections shall be made by the submitting officer.

Requests for overtime compensation require approval by two different supervisors of ascending rank in the officer's chain of command for which the overtime was worked (see section 12, *Overtime Compensation Request Form*).



Supervisors shall not staff weekend duty assignments with officers on overtime except when minimum staffing requirements cannot be met or for emergencies or special situations. These staffing situations shall be documented and authorized by the appropriate commander.

#### **14 DENIAL OR REMOVAL OF OVERTIME COMPENSATION**

Unless there is an obvious inaccuracy on an overtime request form for which an explanation or correction is needed as set forth above in section 13, *Supervisor Responsibilities*, officers who have worked overtime cannot be denied compensation.

It is the department's stance to compensate questionable overtime and then an inquiry shall be conducted. If the overtime worked is questionable, supervisors shall approve it, note their concerns in the *Details* section of the overtime request form along with the supervisor's name and employee number, submit it, and then conduct an inquiry.

If an inquiry concludes the officer should not have received overtime compensation, the timekeeper shall arrange to have the overtime amount removed from the officer's pay or banked time. Furthermore, supervisors discovering an overtime violation shall adhere to the requirements of reporting employee misconduct set out in General Order 200-03, **Investigation of Employee Misconduct**.

When a determination is made that an officer should not receive overtime compensation, a copy of the overtime request form and a written explanation shall be provided to the officer. The original overtime request form and a copy of the written explanation shall be forwarded to the concerned division commander immediately. The original documentation shall be filed in the officer's divisional overtime file according to General Order 800-12, **Records Retention**.

Officers who wish to appeal overtime compensation denial or removal shall follow the departmental grievance process detailed in General Order 300-12, **Grievance Procedure**.

#### **15 TIMEKEEPER RESPONSIBILITIES**

Commanders shall ensure the number of overtime hours worked or taken by officers under their command are posted in the Kronos system to the individual officers' computerized overtime records by the timekeeper. Timekeepers shall enter only approved requests for overtime compensation into an officer's overtime records. Posting overtime worked or taken shall be done on a daily basis within system constraints except for weekends and holidays or as approved by the commander. Even if the commander approves an alternative timeframe for posting such time, timekeepers shall enter and/or verify in the Kronos system all approved overtime worked or taken before the end of each pay period. Kronos updates the SAP® system on a biweekly basis.

To process officers' overtime request forms, the timekeeper shall enter the following information into the Kronos system under the appropriate officer's name and employee number: date overtime was worked, appropriate A/A field code, department activity code (DAC), beginning and ending times of the overtime worked, and other appropriate information. Following entry, the timekeeper shall date and sign each overtime request form indicating the DAC and other

information on the form were entered into the Kronos system. Stamped signatures attesting to entries are prohibited.

Upon completion of entering all exceptions and overtime request forms, the timekeeper shall do all of the following:

- a. Generate in Kronos and print a batch time entry report for each batch submitted.
- b. Reconcile the printed batch report with the overtime compensation and leave requests.
- c. Sign and date the reconciled batch report certifying the accuracy of the entries. Stamped signatures certifying the accuracy of entries are prohibited.
- d. Retain signed batch reports in the division in accordance with General Order 800-12, **Records Retention**.
- e. File the original overtime compensation request forms in the applicable officer's divisional overtime file and retain in accordance with General Order 800-12, **Records Retention**.

Timekeepers may make any needed and approved modifications of overtime compensation information after it has been entered into Kronos. However, if any needed and approved adjustments cannot be completed by the timekeeper, the timekeeper shall send a written request to the City of Houston's Payroll Services Division in the Administration and Regulatory Affairs Department so the adjustments can be made.

Overtime earned by a timekeeper shall be posted by the back-up timekeeper. If no back-up is available, timekeepers shall submit their approved overtime request forms to Payroll Services for entry into Kronos.

## **16 EXEMPT CLASSIFIED EMPLOYEES**

*Exempt officers* holding the rank of lieutenant or captain or classified pay grade VII or IX shall refer to General Order 300-36, **Exempt Time Compensation and Exempt Time Credit**, for directives regarding overtime compensation.

When sergeants are assigned as acting lieutenants and are required to work overtime, they may elect to receive time and a half pay at the sergeant's pay scale or accrue overtime hours at the rate of time and a half.



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